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February 1, 1995

VIA FEDERAL EXPRESS

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

FEB 2 1995

RE: Continental Cablevision's Petition for Reconsideration of Sixth Order
MM Docket 92-266: **Comments in Support**

Dear Mr. Caton:

Charter is a medium-sized MSO. We write in support of Continental Cablevision's Petition for Reconsideration of the Sixth Report. We agree with the legal and policy arguments set forth by Continental, and offer the following illustration of a gross inequity built into the benchmark system which would be righted by grant of Continental's Petition.

We recently acquired a system which offers a regulated tier of three channels on a regulated "benchmark" basis. The tier consists of Bravo and two local sports networks. Under the terms of the License Agreements with these program suppliers, we must pay license fees in excess of \$1.60 based on the total number of expanded basic subscribers. However, only 40% of our customers actually take this three-channel CPST, leading to an effective rate of \$4.00 per tier subscriber. Thus, under the benchmark rules, we are paying far more to the programmers than we are allowed to charge customers for this regulated tier.

Obviously, the FCC's rules should not require cable operators to sell programming at below cost. The former owner heeded warnings about evasion to prevent the conversion of this tier into a deregulated `a la carte package, and consistent with these warnings was waiting for FCC guidance before fixing this problem. Now we know that the other 25% of the industry are permitted to keep the `a la carte packages they created in 1993. But for reason we cannot understand, the FCC is applying an absolute no-migration rule to us and to others who were trying to obey the rules, which prevents us from ever moving these services to an NPT in which we can at least cover our product costs. Our Licensing Agreements forbid us from selling sports networks as single-channel `a la carte services, due to most favored nation contract restrictions by the leagues and teams. Nor do we believe that "melting" this package into basic is consumer friendly: our customers have already indicated to us that this is a niche package which a majority

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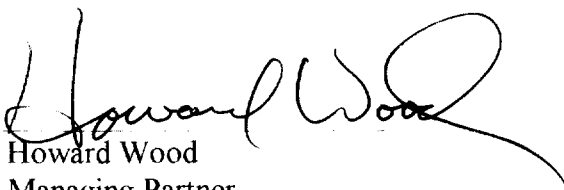
of our customers do not wish to buy, and we are trying not to mistreat them. Thus, we need to price this tier in a way which covers our costs.

Granting Continental's Petition would allow us to move this three channel package to NPT status and charge customers at least what it costs us. Otherwise, we cannot justify continuing to offer a package in which we are losing approximately \$41000 per month. We do not believe the FCC rules were intended to discourage operators from providing services to customers who are willing to pay. However, we believe the current rules are restricting cable operators' programming choices

Please grant the Continental Petition as soon as possible to rectify this anomaly in the rules, and to extend equally to all members of the cable industry the rules which you have so far applied only to the 25%

Respectfully submitted,

CHARTER COMMUNICATIONS

By: 
Howard Wood
Managing Partner

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	Commissioner Andrew C. Barrett	Lisa Smith
	Commissioner Susan Ness	Mary McManus
	Commissioner Rachelle B. Chong	Richard Welch

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